

REMARKS

By this Amendment, claims 1, 5, 13, 29, 37 and 40 have been amended. Claims 1-6, 13-19 and 29-42 are pending.

Related Cases

The present application is related to U.S. Pat. App. Ser. No. 10/667,685, entitled “Modified System and Method for Intraoperative Tension Assessment During Joint Arthroplasty.” That application was rejected on January 10, 2008. A copy of the rejection will be made available to the Examiner if requested.

Support for Amendments

See, for example, FIGS. 2-3 and 6-7.

Claim Rejections – 35 USC §102(b)

Applicants respectfully traverse the rejection of claims 1-6, 13-19 and 29-42 under 35 USC 102(b) as being anticipated by Hershberger et al. (5,470,354).

In the first embodiment of Hershberger et al., the sensor component 150 is disclosed as being located on the planar upper surface 92 of the base member 84 of the tibial component, beneath the bearing elements 88, 90. (See Col. 6, lines 53-60). This location is illustrated in FIGS. 5 and 7, where element 150 is shown to be below elements 88 and 90. In the office action, col. 7, lines 45-47 is referenced as support for Hershberger et al. disclosing a polymer layer. This part of Hershberger et al. discusses the bearing elements 88, 90. These bearing elements 88, 90 are described as being positioned above a base member 84, which has surfaces 92, 94 that Hershberger et al. describes as being “planar” and “flat and smooth” (col. 6, lines 57-66). Bearing element 88 is illustrated in FIGS. 6, 8, 10 and 11 as having a convex lower rocker surface 130. The sensor 150 is positioned between the base member 84 and the rocker members 130, 132 on the bearing elements. The sensor 150 is not shown as having any curved contour

and is not shown as having a concave portion that is curved in two intersecting planes or a convex portion that is curved in two intersecting planes. To the contrary, the surface of sensor 150 that contacts rocker members 130, 132 is shown to be flat. Thus, in the first embodiment of Hershberger et al., the sensor has two parallel flat surfaces, one contacting the flat surface of the base 84 and one contacting the curved surface of one of the rocker members 130, 132.

Considering the patellar component of FIGS. 23-26 of Hershberger et al., this component also has a base plate with a “flat smooth surface for the sensor to contact” (col. 10, lines 23-24). Referring to FIG. 32, the rocker member is positioned on the base plate 221, and the lower surface of element 223 is “flat and smooth” (col. 11, lines 22-25). Thus, in the patellar components of Hershberger et al., the sensors do not have curved concave and convex surfaces.

Considering the embodiment of FIGS. 20-22 of Hershberger et al., in this embodiment the sensor 200 has three fingers, and includes an inner sensor portion 204 that is illustrated in FIG. 22. As described at col. 10, lines 9-16:

“As the sensor is moved into position on the tibial component, the inner sensor portion 204 is forced against curved ramp 206 on stabilizer 196 and cammingly slides into a vertical orientation. During flexion of the knee joint, rocker member 208 on the pivoted stabilizer 196 presses the sensor portion 204 against the fixed stabilizer 210 and provides an output and placement of the load force against it.”

However, the sensor does not appear to be curved in two intersecting planes. (see FIG. 22).

Accordingly, Hershberger et al. does not disclose or suggest a sensor array that has a concave portion that is curved in two intersecting planes and a convex portion that is curved in two intersecting planes. Therefore, independent claims 1, 13, 29 and 37 do not read on Hershberger et al. With respect to claim 40, Hershberger et al. does not appear to disclose or suggest a protective cover that has concave and convex surfaces that are curved in two intersecting planes and that are shaped to correspond to the shape of the curved concave surface

of the body. Therefore, independent claim 40 does not read on Hershberger et al. Accordingly, all of the pending claims are patentable over Hershberger et al.

Conclusion

It is believed that the claims 1-6, 13-19 and 29-42 are in condition for allowance. Applicants respectfully request reconsideration, further examination and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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